

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ContentGuard Holdings, Inc.,

Plaintiff,

v.

Amazon.com, Inc., *et al.*

Defendants.

Civil Action No. 2:13-cv-1112-JRG

APPLE INC.'S MOTION FOR CONTINUANCE AND NEW TRIAL SETTING

Trial in this matter is currently set for September 14, 2015, the same day as the trial in two other matters, including ContentGuard v. Google (“the Google trial”). *See* Dkt. 849. The Apple Inc. (“Apple”) trial will only go forward if the Google trial does not go forward. *See* Dkt. 815 at 2. On August 28, 2015, Apple moved for a trial setting. *See* Dkt. 875. On September 1, 2015, the Court denied Apple’s motion as moot and without prejudice. *See* Sept. 1, 2015 Pre-Trial Hearing Transcript at 17:3-13 (“With regard to Apple’s motion to set a trial date, that’s denied without prejudice.”); Dkt. 901 at 2.

The Court has allocated time on its calendar for a first ContentGuard trial and has expressed concern that a late settlement of the Google case will result in lost trial time unless the Apple case proceeds in its place. At this late date, however, the Google case has not settled, and Apple’s employees who need to be present for the trial will have to travel beginning shortly in order to be in Marshall for a possible trial next week. Each of these employees will be required to spend two days in travel to and from Marshall from their homes in Northern California, in addition to the time they will commit to waiting for their respective turns to testify and the time required to provide their testimony. This will impose family burdens on them as well as absence

from work that will prove to be unnecessary if the Google trial proceeds. And a second trip will be necessary when the Apple case is tried at a later, to be scheduled date.

By granting a continuance now and setting a new date for the Apple trial, the Court will make it possible for Apple employees who are fact witnesses and not otherwise involved in litigation to avoid disruption to their family lives and potentially unnecessary inconvenience.

Apple therefore respectfully requests that the trial be continued and a new date be set by the Court.

Dated: September 10, 2015

Respectfully submitted,

/s/ Melissa R. Smith

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Attorneys for Defendant Apple Inc.

CERTIFICATE OF CONFERENCE

The undersigned counsel certifies that it has complied with the meet and confer requirement set forth in Local Rule CV-7(h) by discussing this motion with counsel for Plaintiff. Counsel for Plaintiff indicated that Plaintiff is opposed to this motion.

/s/ *Melissa R. Smith*

Melissa R. Smith

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, on this the 10th day of September, 2015.

/s/ Melissa R. Smith

Melissa R. Smith